

Rule 36. Entry of Judgment; Notice

(a) Entry. A judgment is entered when it is noted on the docket. The clerk must prepare, sign, and enter the judgment:

- (1) after receiving the court's opinion — but if settlement of the judgment's form is required, after final settlement; or
- (2) if a judgment is rendered without an opinion, as the court instructs.

(b) Notice. On the date when judgment is entered, the clerk must serve on all parties a copy of the opinion — or the judgment, if no opinion was written — and a notice of the date when the judgment was entered.

Local Rule 36(a). Publication of Decisions.

Opinions delivered by the Court will be published only if the opinion satisfies one or more of the standards for publication:

- i. It establishes, alters, modifies, clarifies, or explains a rule of law within this Circuit; or*
- ii. It involves a legal issue of continuing public interest; or*
- iii. It criticizes existing law; or*
- iv. It contains a historical review of a legal rule that is not duplicative; or*
- v. It resolves a conflict between panels of this Court, or creates a conflict with a decision in another circuit.*

The Court will publish opinions only in cases that have been fully briefed and presented at oral argument. Opinions in such cases will be published if the author or a majority of the joining judges believes the opinion satisfies one or more of the standards for publication, and all members of the Court have acknowledged in writing their receipt of the proposed opinion. A judge may file a published opinion without obtaining all acknowledgments only if the opinion has been in circulation for ten days and an inquiry to the non-acknowledging judge's chambers has confirmed that the opinion was received.

Local Rule 36(b). Unpublished Dispositions.

Unpublished opinions give counsel, the parties, and the lower court or agency a statement of the reasons for the decision. They may not recite all of the facts or background of the case and may simply adopt the reasoning of the lower court. They are sent only to the trial court or agency in which the case originated, to counsel for all parties in the case, and to litigants in the case not represented by counsel. Any individual or institution may receive copies of all published opinions of the Court by paying an annual subscription fee for this service. In addition, copies of such opinions are sent to all circuit judges, district judges, bankruptcy judges, magistrate judges, clerks of district court, United States Attorneys, and Federal Public Defenders upon request. Published and unpublished opinions issued since January 1, 1996 are available free of charge at www.ca4.uscourts.gov.

Counsel may move for publication of an unpublished opinion, citing reasons. If such motion is granted, the unpublished opinion will be published without change in result.

I.O.P.-36.1. Opinion Preparation Assignments. *The custom of the Fourth Circuit is to reserve judgment at the conclusion of oral argument. A conference of the panel is held promptly after oral argument, usually immediately after the presentation of the case. Although a tentative decision may be reached at this conference, additional conferences are sometimes necessary. Opinion assignments are made by the Chief Judge on the basis of recommendations from the presiding judge of each panel on which the Chief Judge did not sit.*

-36.2. Circulation of Opinions in Argued Cases. *Although one judge writes the opinion, every panel member is equally involved in the process of decision. An appeal may be heard and decided by two of the three judges assigned to a panel, when one judge becomes unavailable. If a panel is reduced to two and the two cannot agree, however, the case will be reargued before a new three-judge panel which may or may not include prior panel members.*

When a proposed opinion in an argued case is prepared and submitted to other panel members, copies are provided to the non-sitting judges, including the senior judges, and their comments are solicited. The opinion is then finalized. The Clerk's Office never receives advance notice of when a decision will be rendered, so counsel should not call for such information.

-36.3. Summary Opinions. *If all judges on a panel of the Court agree following oral argument that an opinion in a case would have no precedential value, and that summary disposition is otherwise appropriate, the Court may decide the appeal by summary opinion. A summary opinion identifies the decision appealed from, sets forth the Court's decision and the reason or reasons therefor, and resolves any outstanding motions in the case. It does not discuss the facts or elaborate on the Court's reasoning.*

Former I.O.P.-36.4 redesignated Local Rule 36(a) December 1, 1995; amended December 1, 2002, and December 1, 2009.

Former I.O.P.-36.5 amended January 1, 1994; amended and redesignated Local Rule 36(b) December 1, 1995; amended December 1, 2002, and December 1, 2009.

Former I.O.P.-36.6 redesignated Local Rule 36(c) December 1, 1995; amended October 1, 2002; amended and redesignated Local Rule 32.1 December 1, 2006.

I.O.P.-36.2 amended January 1, 1994, December 1, 1995, and April 1, 2008.